

scrutiny.⁹ I assert that the more feasible approach (*and the "stay out of court" approach*) is to allow the market to drive the type of programming offered by the digital broadcasters.

III. Candidate Access to Television

In the midst of a heated campaign primary season, I am confident that most of us appreciate the need for open political discourse on television. Television airtime for candidates is not cheap; for example, in an average Senate race, 60 percent of a candidate's campaign funds are spent on broadcasting (including radio airtime, as well).¹⁰ However, I assert that requiring free airtime to political candidates will not increase political discourse and will do no great service to the American television viewers—*the market*.

Fox tried a political "experiment" in the 1996 election. It provided 30 minutes of free airtime on the eve of the presidential election and 10 1-minute segments in the month before the election.¹¹ Apparently, Fox's "experiment" was no great success. The Anneberg Public Policy Center survey showed that fewer voters were reached by the method used by Fox than by paid advertisements, debates, and other forms of candidate campaigning.¹² Even if all of the broadcasters were forced to donate airtime to candidates, I think the outcome would still be the same. One problem that I anticipate is that if the broadcasters donate short segments prior to the campaign, there is no guarantee that viewers will be present. As previously mentioned, many Americans get their news from sources outside of television. My concern is that in the near future the federal government will attempt to regulate every

⁹ *Adarand Constructors, Inc. v. Peña*, 515 U.S. 200 (1995); <http://www.thebba.org/NTIA.html>

¹⁰ www.senate.gov/~dpc/crs/reports/ascii/97-680

¹¹ *Id.*

¹² *Id.*

source of news. Senator John McCain, who thinks *favorably* of airtime donations, even shares some of my concern. "What prevents them from saying, 'You've got to give free time to the next FCC hearing, or the Commerce Committee chairman's next speech?'" McCain asked *The New York Times*. "Where does it end?"¹³

My experience is that most network broadcasters already dedicate a sufficient amount of time to political discourse and candidate airtime. There are numerous political "Sunday morning shows," such as Meet the Press, Face the Nation, and Fox News Sunday, which battle each other for viewers. Those shows are definitely driven by the market. I certainly have noticed no shortage of coverage for the four leading Presidential candidates. I understand the counterargument: the purpose of the proposed airtime is not to benefit the popular candidates, but rather the unpopular candidates. Although not a problem in the current Presidential election, there could be a problem with some of the local political races. Every candidate, even the fringe candidates with little support, would be entitled to free airtime. It would be very difficult for the broadcasters to draw the line. Allowing every candidate free airtime, especially in the local elections, may have the unintended consequence of driving people away from gathering candidate information on television. Candidates may actually not value television time if it is given to everyone. It may have the effect of forcing candidates to spend more money and find different mediums through which they can campaign. Therefore, I propose that the market will be the most effective indicator of which candidates need more airtime. The higher number of viewers will reward those broadcast channels which meet the market demand.

¹³ <http://reason.com/9804/col.powell.html>

The Supreme Court has recognized the government's interest in putting restraints on licensees.¹⁴ Additionally, the Court has upheld the statutory right of access by political candidates to airtime.¹⁵ However, I doubt CBS supports the proposition that political candidates are entitled to *free* airtime.

CONCLUSION

I urge the Commission to consider the ramifications and likely effects of further regulations upon digital television licensees. While I fully trust that the Commission intends to act in the best interests of the viewing public, I fear the unintended consequences may be the opposite of the Commission's desired result. Digital television licensees can do much more in terms of technology; therefore, the market will create a demand for more diverse services. As a member of the viewing public, I would rather watch the stations that respond to market demand upon their own initiative—not the stations that act solely because of federal regulation. *The market* may actually respect and reward those stations that show initiative. Thank you for your consideration of my comments.

¹⁴ *Red Lion Broadcasting Co. v. FCC*, 395 U.S. 367 (1969).

¹⁵ *Columbia Broadcasting System (CBS) v. FCC*, 453 U.S. 367 (1981).

RECEIVED
March 15, 2000
MAR 23 2000
FCC MAIL ROOM

Federal Communications Commission

47 CFR Part 73

MM Docket No. 99-360; FCC 99-390

Public Interest Obligations of Television Broadcast Licenses

Re: Enhancing Political Discourse

**The FCC Should Promulgate Specific Obligations for Television Broadcasters in
Order to Facilitate Political Discourse**

In the notice of proposed rulemaking, the FCC inquired into how the quality of political discourse could be improved. While the agency did not propose any rules or policies in the notice of inquiry, the FCC correctly wished “to initiate a public debate on the question of whether, and how, the broadcasters’ public interest obligations can be refined to promote democracy and better educate the voting public.” This public debate is necessary to emphasize the current lack of political discourse provided by broadcasters, especially in the local political sense.

This comment comes from a concerned law student who feels that television broadcasters are not actively attempting to provide sufficient political discourse for the public. As a prime example of this position, I refer to the recent primary election for the state of Tennessee. During the weeks before the primary, the only election that received any significant broadcast attention was the presidential primary. The relatively few local elections received scant, if any, recognizable broadcast time.

This comment acknowledges that there are elections other than the presidential election. In addition, these local elections may play a far more direct role in local voters' lives. While this comment concedes that there are often numerous elections to cover, local elections need broadcast time in order for the public to be sufficiently aware of candidates and even more basically, the elections themselves. The only way to provide sufficient broadcast time for all political candidates is for the FCC to promulgate specific and detailed requirements for broadcasters' public interest requirements.

Promotion of Democracy

"One Man, One Vote." This short maxim is a bedrock principle of our nation. Every instance where one group has tried to take away that vote has caused severe outcries throughout society. The beginning of the maxim was, One Free Property Owning White Man, One Vote. This early construct quickly evolved throughout the next 225 years. Soon after the Civil War, the maxim became One Man, One Vote. Yet, there were still those who tried to keep certain groups from voting. After some of these problems were rectified, the maxim became One Person, One Vote. While this was not the original meaning of the maxim, our current nation is based on the fact that EVERYONE has the power to influence the system. Implicit in this simple maxim is the idea that an informed electorate is better able to make a wise decision. In order for the electorate to become sufficiently informed, the public must have access to information.

However, the public does not just need information on a national level. Local elections require just as much information as national elections. The question is how do we get enough information to the public for it to make an informed decision in every election? The answer is simple. We must require broadcasters to provide this

information to the public. Currently the amount of information broadcast to the public dealing with elections, local elections in particular, falls well short of the amount required to make an informed decision.

Television has been accepted as the prime media source in current society and plays a paramount role in the dissemination of information to the public. While television has become the preferred media for today's society, it fails to provide sufficient information to promote the democratic process. The FCC must step in and micro-manage broadcasters' public interest requirements in order to preserve the democratic process. Without intervention by the FCC, the current trend of low voter turnout will probably continue. When a democracy elects representatives to office without a majority of the electorate even voting, the democratic process is failing. Someone must step in and reverse the trend. The FCC is this someone and the public interest requirements are the vehicle.

The first goal of broadcasters' public interest requirements should be the promotion of democracy. In order to promote democracy, the FCC must provide adequate and detailed requirements that broadcasters' must meet in order for the public to become adequately informed. Broadcasters have already proven that they will not voluntarily provide sufficient coverage to all elections. This inability to cover local political issues with the same zeal as national issues has contributed to voter apathy during recent elections. In order to promote democracy in present day society, broadcasters need to provide better coverage of local political issues. The FCC must take an affirmative role by requiring, in detail, broadcasters to provide sufficient time for local candidates and local elections.

Some critics of this idea will say that the FCC should not micro-manage the public interest requirements of broadcasters; however, this is exactly what the FCC should do. The FCC is the only entity that can effectively require broadcasters to provide a sufficient amount of airtime. In determining that the FCC's involvement is required, it is important to weigh the benefits and consequences of this action.

The positives of the FCC micro-managing broadcasters' public interest requirements are overwhelming. The democratic process is a fundamental aspect of our society that must be protected. Without the democratic process, our Constitution and 225 years of history mean relatively little. In order to insure that the democratic process is preserved, the public must have access to enough information in order to make an informed decision. Presently, broadcasters are providing less and less time for local political issues. While local political elections are admittedly not as important as the presidential election, there is absolutely no reason why local events should not be covered at all. Local events need to be given sufficient time in relation to national elections. Additionally, since local elections heavily outnumber national elections, providing a majority of available broadcast time for national elections is irresponsible. Broadcasters must provide more broadcast time for local elections.

However, there are consequences to the FCC micro-managing broadcasters' public interest requirements. As with all additional agency action, more involvement takes away freedom and choice from the broadcasters. This could be a serious problem if the agency dictated programming choice to broadcasters out of the days of Stalin. This need not be the case here. The FCC can provide substantial requirements to broadcasters, but allow individual broadcasters to satisfy these requirements in different fashions.

Digital Television (DTV) provides expansive alternative ways to satisfy these increased public interest requirements. The ability of broadcasters to “multicast” and “datacast” enables broadcasters to provide more extensive coverage of local political events through a variety of different means. The minimal infringement on the broadcasters’ freedom is easily outweighed by the promotion of democracy that can be gained through increased public interest requirements.

It is quite clear that the democratic process is falling far short of its intended goal. In order for the democratic process to regain a foothold on American society, the quantity and quality of information must improve. With this increased information, the electorate will possess the necessary knowledge to make an informed decision. Once the public can make this informed decision, it will exercise it.

Educate The Voting Public

A second purpose of the broadcasters’ public interest requirements should be the education of the public. This purpose addresses the quality of information, not just the quantity of information. There are certain items of information that the public must be given in order to make an informed choice. The first piece of information is the simple time and dates of elections, primaries included. This commentator was wholly dissatisfied with the local broadcasters and their failure to inform the public of the simple fact of the date of the primary. This piece of information is essential. The FCC must require that broadcasters provide dates and times of elections to the public.

DTV enables broadcasters to “datacast” this information through television media with a continuity before unavailable. The FCC should require broadcasters to provide information concerning the dates and times of elections on a continual basis for the two

weeks prior to primaries and elections. This requirement should be more extensive than just a five-second comment from local news media. Broadcasters can overlay election dates and times on screen, similar to storm warnings. This information is needed to educate the public on its ability to vote, and when to do so.

Another important aspect of educating the public is informing the electorate about the candidates. The coverage of local elections is appallingly low. This in turn creates low voter turnout, because voters really do not know who to vote for. The FCC must require broadcasters to provide airtime to candidates at all levels. In the notice of inquiry, section 37 states that the Advisory Committee Report would allow broadcasters maximum flexibility in deciding what candidates and elections to cover. This approach does not solve the apparent problem of broadcasters failing to provide information on local elections.

The FCC must require broadcasters to provide airtime to local candidates in addition to time for national candidates. The FCC could require a proposal similar to the proposal of former FCC General Counsel Henry Geller et. al. in section 38. But in addition to the Geller proposal, broadcasters should be required to provide time before primaries, although admittedly this time would be less than the general elections. The problem with the Geller proposal is that it still gives broadcasters the discretion as to which races and candidates are given time. The result of this proposal will be to, once again, provide less, if any education on local candidates. The FCC should at a minimum provide percentages of time for each level of election. For example, out of the allotted time, broadcasters could use 34% of the time for national elections, 33% for state

elections, and 33% for local elections.¹ Whatever the percentages, the FCC should determine guidelines for where broadcasters place their allotted time.

While this comment requests the FCC to regulate the amount of time that broadcasters spend on elections, the decision as to what type of information is broadcast should remain in the hands of the broadcasters. As long as broadcasters are required to spend certain allotments of time on certain races, hopefully the broadcasters will use this time to their own advantage.² By allowing broadcasters to decide what for they use to disburse information to the public, within the guidelines provided by the FCC, the FCC is still allowing broadcasters broad power over their broadcasts.

Conclusions

The current status of informational broadcasts about local elections is appalling. While national elections still garner broadcast headlines, local elections have been cast aside. The nation needs to be educated on all elections, and television will be the medium to promote that message. The problem under current guidelines is that broadcasters can satisfy their public interest requirements in very general manners. The FCC needs to step in and require broadcasters to provide added coverage of state and local elections. In addition, the FCC needs to require broadcasters to provide pertinent information dealing with elections, such as dates and times.

More stringent public interest requirements will provide the public with information they have not been receiving lately. Candidates for all elections should be able to be heard, and voters should be able to hear them. Without these abilities the

¹ The percentages reflect the amount of emphasis that should be placed on the national election, but contrasts with that the fact that state and local elections will have more races and candidates.

² It should go without saying that broadcasters are required to provide equal time to all candidates.

democratic process can not work. The idea of democracy is for everyone to have a voice in the election of those who govern. If the public is not given adequate information about the candidates who are likely to run the country, our system is failing. A choice for an elected official should always be an informed choice, and the FCC is in a position to correct the current flaws in the system. By requiring broadcasters to provide information on every election from President of the United States to City Alderman, the FCC can promote the democratic process and enable every choice to be a well-informed choice.

For these reasons, it is imperative for the FCC to address the issues dealing with political discourse. The democratic process must be maintained and the trend of voter apathy must be reversed.

Sincerely,

A handwritten signature in black ink, appearing to read 'Neil Brunetz', with a stylized flourish at the end.

Neil Brunetz, 2L

Univ. of Tenn. College of Law

Fred Baker
Comment to Notice of Proposed Rulemaking
MM Docket No. 99-360; FCC 99-390

RECEIVED

MAR 23 2000

FCC MAIL ROOM

I. SCOPE OF COMMENTS

With this comment, I respond to the following issues raised in the Notice of Proposed Rulemaking: (A) whether the Commission should adopt new public interest rules to obligate television broadcasters after their transition to digital television; and (B) to what extent should public interest rules apply to the new opportunities offered by digital television, such as multicasting, datacasting, and "ancillary and supplementary services."

I am a second-year law student at the University of Tennessee College of Law. With this comment, I argue that: (A) yes, the Commission should promulgate new public interest requirements for digital television broadcasters; and (B) the public interest requirements should be applied to each manifestation of the new digital television technology, like multicasting and datacasting.

II. ARGUMENT

A. New Public Interest Requirements for DTV

The Commission should adopt new public interest rules for digital television broadcasters. Some commenters in the DTV proceeding argue that current public interest rules need not change simply because broadcasters will be using

digital technology to provide the same broadcast service to the public. This argument fails in two respects. First, it fails to take into account the many additional options that the new technology of digital television will offer both the broadcasters and the public. Second, and more importantly, such an argument ignores the additional responsibilities imposed by these new opportunities.

With the advent of new broadcasting technologies, the public interest requirements should be increased to correspond to these changes in technology. How should existing public interest requirements be applied to a new technology? For some valuable guidance on this issue, consider some statements made by the Supreme Court during the 1940's when it addressed the then-novel question of how public interest requirements should apply to radio broadcasters.

In these cases, the Supreme Court made it clear that the "public interest" required under the Communications Act¹ is the interest of the listening public in "the larger and more effective use of radio."² Moreover, the Court noted that "an important element of public interest and convenience affecting the issue of a license is the ability

¹ 47 U.S.C. § 309(a)

² *National Broadcasting Co. v. United States*, 319 U.S. 190, 216, 319 S.Ct. 997, 1009 (1943).

of the licensee to render the best practicable service to the community reached by its broadcast."³

As these cases indicate, one important aspect of any broadcaster's public interest obligation is utilize that broadcaster's medium in the most practicable and effective way to benefit the public. If that medium provides added opportunities and technologies to communicate to the public, the public interest obligations should reflect this increased potential for communication. Applying this standard to digital television, it is clear that these broadcasters are obligated to use the added features of this technology, like multicasting and datacasting, in ways that will serve the public. Thus, the public interest obligations should be extended to these aspects of digital television.

The conclusion that digital television broadcasters should be subject to broader public interest obligations is further supported by the underlying policy behind these requirements. The public airwaves are not owned by the broadcasters. Rather, broadcasters are only allowed to use these airwaves when the public, through its government, grants them permission to do so through the licensing process. This feature of broadcasting serves as a double-

³ *Federal Communications Commission v. Sanders Bros. Radio Services*, 309 U.S. 470, 475, 60 S.Ct. 693,

edged sword for the broadcasters. On one hand, the broadcasters must go through the hassle of the licensing process and be subject to government regulation in order to use these airwaves. On the other hand, by jumping through these hoops, television broadcasters are given the exclusive permission to utilize this very powerful and lucrative medium. Hence, the public and the broadcasters have struck a social contract of sorts, whereby the broadcasters are allowed the sole privilege of tapping into this profitable medium in return for promising to devote some of this medium's use to the public.⁴

When the digital television movement is viewed in this light, it is clear that DTV broadcasters should be subject to increased public interest obligations commensurate with the increased benefits they have received. With the transition from analog to digital television, broadcasters are given many more opportunities to use the public airwaves for their own financial benefit. In return for these increased opportunities for financial gain by using the public's airwaves, digital broadcasters should be obligated to compensate the public through additional

697, 84 L.Ed. 869, 1037 (1940).

⁴ Reed E. Hundt, *The Public Airwaves: What Does The Public Interest Require of Television Broadcasters?*, 45 Duke L.J. 1089, 1095 (1996).

public interest regulations related to these new opportunities.

B. Public Interest Rules for Specific DTV Opportunities

1. Multicasting

It is well documented that with the advent of digital television, broadcasters will be able to offer the public far more than a simple analog television signal. In addition, digital broadcasters will be able to multicast, allowing broadcasters to offer three or more programming options.⁵ This could allow viewers to choose between regularly scheduled programming, twenty-four hour news coverage or "all sports" programming, to name but a few examples.⁶ With such added programming choices, digital television broadcasters stand to gain considerably more advertising revenue, while still using the public airwaves.

In return for these financial benefits, digital broadcasters should be subject to immediate and specific public interest obligations in their use of multicasting. All of the broadcasters' existing public interest obligations should apply to each programming stream as if it were a separate channel. That is, the same obligations

⁵ James M. Burger and Todd Gray, *Datacasting-Creating Incentives: Fees for Ancillary Services offered by Digital Television Stations*, (December 1998) <http://www.digitaltelevision.com/law1298p.shtml>.

⁶ *Id.*

regarding children's television,⁷ political campaigns,⁸ and indecent broadcasts⁹ should still obtain, but should apply to each and every programming stream that is broadcast.

The Notice of Proposed Rulemaking asked whether multicasting broadcasters should be allowed to satisfy these requirements on just one of the streams, leaving the other streams free of such public interest applications. This option should not be available to broadcasters because such an approach misconstrues the public interest rules as broadcaster-centered, rather than public-centered. After all, the obligations are not to "punish" the broadcasters; if they were, then allowing the broadcasters to pay this penalty all on one stream would be sufficient as long as the broadcasters' total obligations were paid.

However, instead of being aimed at the broadcasters, the public interest rules are intended to benefit the public. This elementary concept is one that has seemingly been lost in the technological shuffle. That is, if broadcasters are allowed to offer multiple programming streams, while including public interest features on only one of them, then the public will lose. Consider the example of a broadcaster offering three programming

⁷ See 47 U.S.C. §303(b)(a)

⁸ See 47 U.S.C. §315

⁹ See 47 U.S.C. §303

streams: an all-news stream, an all-sports stream, and a stream that only includes public service announcements, local campaign news, etc. In this scenario, only one stream would be used to numerically satisfy the broadcaster's public interest requirements, while other more popular programming streams would be transmitted totally free of public interest rules. In theory, the public would still have the choice of which programming to view. However, in reality, the public would be ill-served if broadcasters were allowed to take advantage of this right of the public to choose by placing lucrative advertising on popular programming streams while putting all the public interest features on other less popular streams. The public will not be served by features they do not see.

2. Datacasting

Another potential advantage offered by digital television is datacasting, where the broadcaster is able to offer the public additional information about the programs they are watching, up-to-date stock information, CD quality music, and even access to high speed internet service.¹⁰ These services will benefit broadcasters either through advertising or by being offered on a subscribership basis. In return for using public airwaves for their own profit,

broadcasters should be subject to public interest obligations applying to each of these datacasting features.

Some examples of how broadcasters could use datacasting for the public benefit include offering news tickers of local or community significance. Also, they could use datacasting to increase the availability of local disaster warnings. In addition, datacasting offers viewers the ability to be interactive. This could be especially valuable in serving the public by giving the viewing public a unique opportunity to communicate with broadcasters and to supply broadcasters with more information to determine what specific local needs should be addressed.

Some of these applications were discussed by the Gore Commission Report. I will not comment extensively on the Gore Commission's report, but I would like to comment on one proposal made therein. The Gore Commission suggested that there should be a two-year moratorium on additional public interest obligations for stations that choose to multicast. This is intended to give broadcasters an opportunity to explore options in the market place.¹¹

While I agree with many of the Gore Report's proposals to impose additional public interest obligations on digital

¹⁰ James M. Burger and Todd Gray, *Datacasting-Creating Incentives: Fees for Ancillary Services offered by Digital Television Stations*, (December 1998) , <<http://www.digitaltelevision.com/law1298p.shtml>>.

broadcasters, the two-year moratorium is a bad idea for three reasons. First, it would unjustly enrich broadcasters at the expense of the public. Under such a moratorium, broadcasters could reap two years' worth of revenue by multicasting, all while being completely unfettered by the obligation to compensate the public. Second, broadcasters would use this two-year head start to explore the market for more and better ways to benefit financially at the expense of the public. And third, during this time, these public interest-free practices would become more entrenched and harder to change once the moratorium expires. A better solution would be for the public interest obligations to attach immediately to any multicasting and datacasting used by broadcasters. That is the only way to ensure the proper balance under this "social contract" between broadcasters and the public.

III. Conclusion

Digital television offers great opportunities to both digital broadcasters and the viewing public. However, unless the existing public interest obligations are applied to these expanded opportunities, only the broadcasters will reap the benefits of this technology. Thus, additional public interest requirements should be imposed on

¹¹ James Burger and Todd Gray, *The Bore Commission Report on Public Interest Obligations of Digital*

broadcasters utilizing digital technology. Not only should these public interest requirements be increased, they should apply to each new aspect of digital technology utilized by broadcasters. The soundness of this principle is underscored by the Congress' enactment of §336 of the Communications Act, which addresses the new "ancillary and supplementary services" offered with more broadcast spectrum flexibility. The statute states that holders of broadcasting licenses will be allowed to offer "such ancillary and supplementary services on designated frequencies as may be consistent with the public interest, convenience, and necessity."¹² The statute further states that "Nothing in this section shall be construed as relieving as television broadcasting station from its obligation to serve the public interest, convenience, and necessity."¹³ The language clearly indicates that broadcasters are not supposed to be the sole beneficiaries of the advantages offered by digital technology. The public is also entitled to benefit. However, the public may be left out of these benefits, unless additional public interest obligations should be imposed on broadcasters using digital technology.

Broadcasters, (January 1999) <http://www.digitaltelevision.com/law199p.shtml>.

¹² 47 U.S.C. §336(a)(2) [Emphasis added.]

¹³ 47 U.S.C. §336(d)

RECEIVED

MAR 23 2000

FCC MAIL ROOM

To: Magalie Roman Salas, Secretary-FCC

From: Brent Snyder

CC: Professor Glenn H. Reynolds

Date: 03/11/00

Re: Public interest obligations of DTV Broadcasters.

Dear Secretary Salas,

As a law student and current digital cable television subscriber, I want to express my views on the public interest requirements of television broadcasters which will be put in place for the transition to digital television ("DTV"). It appears to me that the majority of comments already filed on this matter have been received from either public interest groups or affected corporations. While reading this, keep in mind that I am an individual consumer, motivated merely by my feelings on what should be imposed on current licensees. With that said, I want to state my general position that I oppose any requirements imposed on broadcasters and urge the Commission to charge broadcasters for the use of our public airwaves or sell them at auction.

Introduction and Background

As I understand them, the previous public interest requirements pertaining to analog TV were justified because there was a "spectrum scarcity". It has been stated that the

"spectrum's 'inherent physical limitation' justifies the federal imposition of public service obligations in return for the 'free and exclusive use of a limited and valuable' public resource."¹ This is, however, no longer the case. DTV utilizes a huge spectrum that was not in existence, or even known about, at the time these original standards were created. Additionally, charging the broadcasters for use of the airwaves would alleviate any responsibility to the federal government under the above rationale. Because I doubt the Commission will accept a non-regulatory approach, I also have a common sense approach to some of the specific requirements being proposed, such as free airtime to political candidates and emergency service announcements.

Corporate Welfare

The giving away of the additional spectrum needed for the transition to DTV has been described by many as one of the greatest instances of corporate welfare this country has ever seen. William Safire made a worthy comparison when he stated that giving broadcasters free use of the airwaves is "like giving Yellowstone National Park to the timber companies."² Not only would charging broadcasters for the use of our airwaves, or

¹William H. Read & Ronald A. Weiner, *FCC Reform: Governing Requires A New Standard*, 49 Fed. Comm. L.J. 289, 294-95.

² *Digital TV in the Public Interest* (visited Mar. 10, 2000) <http://www.cme.org/dtv_in.html>.

auctioning them off, put possibly more than \$20 billion into the economy³, it would allow broadcasters to pursue a free-market approach and broadcast exclusively what the public wants to watch.

One suggestion I have, although I feel not necessary due to private contributions and donations, is using some of the funds obtained from the auction to assist broadcasters, whether public or private, in providing public interest programs, messages or services (i.e. closed captioning). However, this assistance should only be provided during the interim transition to DTV until broadcasters can determine the level of public interest TV their market wants and how best to provide it. On a similar topic, the Commission should understand that regardless of any requirements it adopts, under no circumstance should the federal government award waivers of these requirements to broadcasters providing programs with "public interest" messages contained within (i.e. anti-drug themes in Sabrina the Teenage Witch; among others). Unless the government is listed in the credits of the program as providing support, I believe this is a violation of current anti-payola laws.⁴

³ <<http://www.cbo.gov>>. (\$20 billion was the approximate amount obtained by auctioning off the spectrum for wireless and cellular communication. It has been suggested that auctioning off the DTV spectrum would produce a possibly greater amount; projections suggest between \$10-\$40 billion).

⁴ 47 U.S.C.A. §508.

Comments on Specific Standards

From my reading of the NOI it is apparent that the FCC and others are of the opinion that broadcasters must continue to satisfy some form of public interest requirements. Although I believe none of these requirements are needed or justified in a free-market system; I would like to offer my opinions on why some of the more specific standards proposed do not follow reason.

Programming Streams and Public Interest Requirements

Because I believe that some form of requirement for public interest broadcasting will be imposed, I urge the Commission to allow broadcasters to satisfy these requirements on one channel. The invention of the remote control has got to be one of the greatest inventions promoting free choice and variety in TV programming. Because of the remote control, people from the comfort of their chair change channels with unbelievable fury when bombarded with commercials or public service announcements ("PSA's"). Additionally, with so many channels, and a great deal more to come, people can click and click until they find what they want to watch. Now this may be a sad state of affairs, but the truth is that people who watch PSA's or other public interest broadcasting do so because they choose to. Thus, I argue that requiring broadcasters to show public interest programming on more than one channel serves no purpose.